Report on the

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Montgomery, Alabama



Department of Examiners of Public Accounts

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29-S-16

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October 15, 2008

Representative Howard Sanderford Chairman, Sunset Committee Alabama State House Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Examiners of Nursing Home Administrators** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Examiners of Nursing Home Administrators**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Ronald L. Jones Chief Examiner

Examiner
Detavious Smith

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PROFILE

Purpose/Authority

The Board of Examiners of Nursing Home Administrators was first created by Act 986, *Acts of Alabama 1969* in response to Section 1908 of the federal Social Security Act. Section 1908 requires that states adopt a program for the licensing of administrators of nursing homes and provides that no nursing home within any state will operate except under the supervision of a licensed administrator. The *Code of Federal Regulations* (CFR) 42, Chapter IV, Subchapter C, part 431, Subpart N, requires that the state's Medicare plan must include a state program for licensing nursing home administrators as a condition of participating in Medicare and Medicaid programs. Section 431.703 specifically requires that nursing homes may only operate if supervised by an administrator licensed in accordance with the requirements of subpart N.

Section 431.706 (a), requires that a state's nursing home administrator licensing board must be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients, with the following restrictions;

- A majority of the board members may not be representative of a single profession or category of institution; and
- The members who are not representing institutions may not have a direct financial interest in any nursing home.

The *Code of Alabama 1975*, Sections 34-20-1 through 34-20-16 provide the current statutory authority for the board and authorize the board to license and regulate the profession of nursing home administration.

The board has a close association with the Alabama Nursing Home Association. The board leases its office space from the association. The board's executive secretary is also an employee of the association. The *Code of Alabama 1975*, Section 34-20-8 makes the association an advisory council to the board. Attorney General's Opinion #8100405 to the Hon. Frank G. Perryman, Chairman of the Board of Examiners of Nursing Home Administrators, states that the board may contract with the Alabama Nursing Home Association for office space (see appendices).

Board Characteristics	
Members and Selection	 7 - Appointed by the governor from nominations from: Alabama Nursing Home Association Medical Association of the State of Alabama Alabama Hospital Association Alabama State Nurses Association Code of Alabama 1975, §34-20-4(e)

Term	3 year staggered terms. Members serve until successors have been appointed and qualified. Members may serve no more than two consecutive, full, three-year terms.			
	Code of Alabama 1975, §34-20-4(d)			
3 must be licensed nursing home adm 1 must be a licensed physician who to chronically ill, infirm or aged patients 1 must be a hospital administrator 1 must be a registered nurse with 5 year experience in geriatric nursing and cuserving as a director of nursing in a general facility, 1 must be a consumer member All must be U.S. citizens and Alabama residence in more immediate family can be a licensee of the employed in the nursing home profession				
	<i>Code of Alabama 1975</i> , §34-20-4(b)			
Racial Representation	No specific statutory requirement. The board currently includes: • 3 white males, • 4 white females			
Geographical Representation	One member from each congressional district, unless more than one member from a district is needed to achieve diversity or qualification requirements The board currently includes: • 1 each from districts 1, 2, 5, 6, and 7 • 2 from district 4 Code of Alabama 1975, §34-20-4(c)			
Consumer Representation	One member must be a consumer member. The consumer member is a full voting member. Code of Alabama 1975, §34-20-4(b)			

Other Representation	The membership of the board shall be inclusive and reflect the racial, gender, geographical, urban/rural, and economical diversity of the state. Code of Alabama 1975, §34-20-4(a)
	\$100 per day set by the board for performing official board duties.
Compensation	Travel expense reimbursement at the same rate as state employees.
	<i>Code of Alabama 1975</i> , §34-20-4(h)

Operations				
Administrator	Katrina G. Magdon, executive secretary Appointed by the board Salary = \$34,397 annually, set by the board			
	Code of Alabama 1975, §34-20-4(j)			
Location	4156 Carmichael Road Montgomery, AL 36106			
Type of License	As of 9/30/2007 the board has issued the following licenses, certifications and permits: Nursing Home Administrator 491 Administrator in Training (AIT) 28 Emergency Permits 24 Total 543			
Renewal	Annually, on the last day of the month in which the original license was issued. If a licensee has not completed continuing education requirements by renewal, the license expires and the licensee must apply for original licensure. If the licensee meets continuing education requirements, but the license is not renewed on time, the license becomes delinquent and may be renewed within a 90-day grace period with the payment of a late fee. Code of Alabama 1975, §34-20-13 Licenses cannot be renewed online.			

Examinations	The board's administrative code provides for examinations to be given at least 4 times a year. The board has selected an examination offered by the National Association of Boards of Long Term Care Administrators (NAB) as its written exam for all applicants, except those applying through reciprocity. The NAB provides its examination through Prometric Technology Centers (formerly Sylvan Learning Centers). Applicants can schedule the NAB examination at their convenience. Reciprocal applicants must pass a state written examination prepared and administered by the board. The state written examination is given on an as needed basis. Schedule of Examination Results (NAB)					
	Calendar	Pass	Fail	% Passing		
	Year 2005	11	9	55%		
	2006	12	8	60%		
	2007	8	5	62%		
		Examination R	-			
	Calendar		csuits (STA			
	Year	Pass	Fail	% Passing		
	2005	22	7	76%		
	2006	25	2	93%		
	2007	21	6	78%		
	Code of Alabama 1975, §34-20-9 & 10					
Cardinaira El action	24 hours per y	ear to qualify	tor renewal o	of license.		
Continuing Education	Code of Alab	ama 1075 824	20 12(;)			
	•	uma 1975 , §34	` '	to an applicant		
	The board may issue a reciprocal license to an applicant					
	who is licensed by a state or national organization					
	whose requirements for licensure are substantially similar to Alabama's and which offers similar					
Reciprocity	endorsement and recognition to Alabama-licensed					
				Heensed		
	nursing home administrators.					
	Code of Alabama 1975, §34-20-12					
Employees	1, part time, unclassified, white female.					
Legal Counsel	Matt Bledsoe, Attorney General's Office					
	ĺ	•				

Attended Board Member Training	Katrina G. Magdon, executive secretary			
Internet Presence	 www.alboenha.state.al.us home page with objective and description board meetings course approval for continuing education board members names and addresses qualifications for licensure preceptor applications, recertifications, and list rules and regulations fee schedule licensee list and information applications, and other forms 			

Financial Information	
Source of Funds	Licensing fees
State Treasury	Yes, Fund 0404
Unused Funds	Retains unexpended funds.

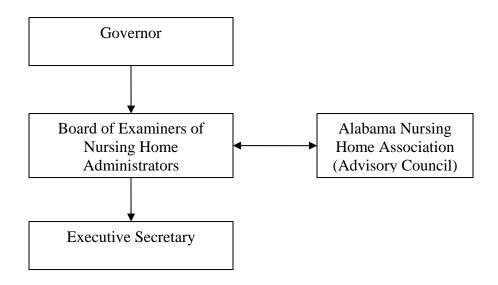
SIGNIFICANT ITEMS

The board is closely associated with the Alabama Nursing Home Association. The board's executive secretary is also an employee of Alabama Nursing Home Association. The board's offices are located at the same address as the Alabama Nursing Home Association. The Alabama Nursing Home Association is by law an advisory board to the Board of Examiners of Nursing Home Administrators. The Attorney General in his opinion #8100405 (see appendices) approves the board's contracting with the Alabama Nursing Home Association to provide office space and clerical assistance for the board.

STATUS OF PRIOR FINDINGS

All prior findings have been resolved.

ORGANIZATION



PERSONNEL

The board has one part-time employee, the Executive Secretary, Katrina Magdon, who is an unclassified merit state system employee. Ms. Magdon is also employed by the Alabama Nursing Home Association.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 562 (single employee staff)

Total Expenditure per Licensee (2006-2007 fiscal Year) - \$147.23*

*491 Nursing Home Administrators and 28 Administrators in Training = 519 Licensees. Total 2007 Expenditure = \$76,409.78

Number of Persons per Licensee in Alabama and Surrounding States

	Population	Number of	Persons per
State	(Estimate)*	Active Administrators	Licensee
Alabama	4,627,851	491	9,425
Florida	18,251,243	1,364	13,380
Georgia	9,544,750	1,168	8,172
Mississippi	2,918,785	438	6,664
Tennessee	6,156,719	760	8,101

^{*}U.S. Census July 2007 Estimates

Notification to Licensees of Board decisions to Amend Administrative Rules

The board complied with procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are being notified of proposed changes through local meetings attended by the executive director, board consultant, and board members. The board also posts a draft of proposed rules on its website.

Jurisdictional Overlap with Other Agencies

Responsibility for the proper operation of nursing home facilities in Alabama is primarily the responsibility of the Department of Public Health. The Department of Public Health, through its Division of Health Care Facilities Administration, is responsible for the licensure and inspection of nursing home facilities. The Board of Examiners of Nursing Home Administrators is responsible only for the licensing of nursing home administrators; however, the Department of Public Health files complaints with the board regarding deficiencies at nursing homes caused by inadequate nursing home administration.

Complaint Resolution

Complaints Received		Complaints Resolved					
Fiscal							
Year	Number	03-04	04-05	05-06	06-07	07-08*	Pending
2003-2004	15	10	4	0	1	0	0
2004-2005	20		13	7	0	0	0
2005-2006	21			10	8	1	2
2006-2007	24				21	1	2
2007-	16					10	6
2008*							

^{*}Through August 26, 2008

Average Days to Resolution		
Year	Days*	
2004/05	123	
2005/06	177	
2006/07	135	

^{*} Excludes complaints under appeal.

Complaint Process

The majority of complaints received by the board are filed by inspectors of the Department of Public Health, Division of Health Care Facilities Administration. The complaints involve deficiencies noted during health inspections of facilities. During the four year scope of the current sunset review, six complaints were received that were not from the Department of Public Health.

The procedures to process complaints and reasons for disciplining licensees are found in Sections 34-20-6 and 34-20-14 of the *Code of Alabama 1975*, and Rules 620-X-8-.01 and 620-X-9-.01 of the board's *Administrative Code*. The board's process for documenting complaints appears to be complete and allows adequate monitoring of complaint status.

Initial Documentation	All complaints must be submitted in writing and signed with contact information included. A complaint form can be downloaded from the board's website or copied from the board's administrative code. The board's secretary notifies the board at the next scheduled meeting that a complaint has been received.
Anonymous Complaints	Anonymous complaints are not investigated.
Investigative Committee	The board's executive secretary, the representative of the Attorney General's Office assigned to the board and, if necessary, a member of the board, are appointed to become the investigative committee.
Notification and Investigation	The executive secretary will notify the individual(s) complained against that the complaint has been received and the nature of the complaint. The individual(s) will be given an opportunity to comment and present information regarding the complaint. The executive secretary may request an affidavit of facts from the individual(s) who filed the complaint. The complaint is logged and a notation is placed in the administrator's file.
Report to Board	The investigative committee may determine that the case should be closed for lack of a probable cause, may negotiate a settlement, or may recommend that an administrative complaint be filed. Upon completion of the investigation, a report is made of investigative findings to the full board. If the investigative committee recommends that an administrative complaint be filed the facts of the case are kept confidential until a formal hearing can be convened.
Eligibility to Vote	If a board member was involved in the investigation, the member must abstain from voting on any action regarding the complaint.
Completion	When final action is determined, the executive secretary enters the information in the administrator's file and registers the action with a national disciplinary data bank, if necessary.

SMART BUDGETING

As a part of the SMART Budgeting system, each agency is required to submit its goals and objectives to the Department of Finance - the goals to be stated as long-term, multi-year targets to be achieved through accomplishment of objectives, which are single-year targets. The goals and objective should be designed to be measureable so that progress toward their achievement can be measured and reported. The SMART Budgeting system includes an Operations Plan and a Quarterly Performance Report.

The board's 2007 and 2008 SMART Quarterly Performance Reports appear in the Appendices of this report.

The board's performance goals and objectives for the 2007 and 2008 fiscal years and the examiner's comments are presented in the following table.

2007 Operations Plan	
Mission Statement	
To examine and license nursing home administrators and to enforce the rules against illegal practice of nursing home administration in Alabama (Code of Alabama 34-20-1 through 34-20-16)	The mission appears consistent with enabling statutes.
Goals	Comments
G 1 – Ensure that only qualified practitioners enter the profession	Goal is statement of normal work rather than a performance goal. Performance goals should address how well an activity is carried out and should have a stated long-term target level of performance.
G 2 – Maintain an up-to-date database of practitioners licensed and currently in the AIT program	Goal is a statement of normal work rather than a performance goal. Performance goals should address how well an activity is carried out and should have a stated long-term target level of performance.
G 3 – Minimize illegal practices among professionals	Goal is a statement of normal work rather than a performance goal. Performance goals should address how well an activity is carried out and should have a stated long-term target level of performance.
G 4 – Resolve all complaints satisfactorily within 120 days of receipt of the complaint.	The goal appears appropriate.
G 5 – Monitor the practice of nursing home administrators to ensure compliance with rules and regulations	Goal is a statement of normal work rather than a performance goal. Performance goals should address how well an activity is carried out and should have a stated long-term target level of performance.

2007 Performance Report				
Objective	Performance Indicator	Projected	Actual	Comments
EF1: Continue to operate within our or below appropriations	Quarterly Allotment Balance	\$110,000	\$75,781	The objective appears appropriate. Performance indicator should be \$ rather than an explanation.
QU1: Resolve 25% of complaints within 90 days of receipt	% of complaints resolved within 90 days	.25	.33	The objective appears appropriate. Performance indicator should be % rather than an explanation. Performance should be in whole numbers rather than decimal per cent equivalents

2008 Operations Plan					
Mission Statement	Mission Statement				
	To examine and license nursing home				
administrators and to enforce t	C	The mission appears consistent with			
illegal practice of nursing hom		enabling statutes.			
in Alabama) Code of Alabama	. 34-20-1 through	onuomig statutesi			
34-20-16)					
Goals	Observations/Conclusions				
G 1 – Resolve complaints	The goal appears appropriate, but is the same as the objective.				
satisfactorily within 270 days	Goals are defined as multi-year targets. Objectives are single				
of receipt of the complaint.	year targets.				

2008 Performance Report				
Objective Unit of		Target	Actual	Observations/Conclusions
	Measure			
EF1: Resolve all complaints satisfactorily within 270 days of receipt	# complaints received/# complaints resolved 270 days.	100		The objective appears appropriate. The unit of measure is inappropriate. It should be % rather than # of complaints.

FINANCIAL INFORMATION

The board funds its operations from self-generated fees. The board does not receive General Fund or Education Trust Fund appropriations. The board operates from Special Revenue Fund 0404 in the State Treasury. Year-end balances are retained for the board's continuous use, subject to appropriation.

Schedule of Fees

The *Code of Alabama 1975*, in the following sections, authorizes the board to set fees through its rule making authority. The following fees have been set.

<u>Fee</u>	Code of Alabama 1975	\$Amount
State Written Exam (Reciprocity)	34-20-9(a)	350
Application	34-20-11	150
Original License	34-20-11	150
Renewal	34-20-13(b)	150
Late Renewal Penalty	34-20-13(d)(2)	400
Inactive Reactivation	34-20-13(f)	400
Emergency Permit	34-20-11	750
AIT Application (200 – 1000 hour)	34-20-9(b)	100
AIT Application (2000 hour)	34-20-9(b)	150
Preceptor Certification	34-20-9(b)	100
Preceptor Recertification	34-20-9(b)	100
Reciprocity Questionnaire	34-20-12	75
Administrative Fines	34-20-14(a)	Up to 1000

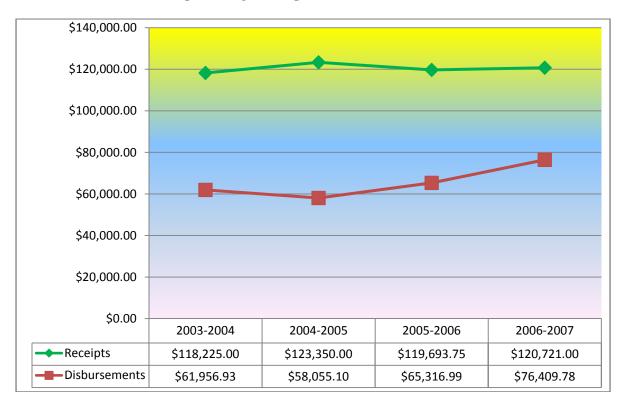
In addition, the board collects:

Bad Check Return Fee	8-8-15	25
Copies (per page 1 - 25)	Cost recovery	1.00
Copies (per page 26 +)	Cost recovery	.25

Schedule of Operating Receipts, Disbursements, and Balances October 1, 2003 through September 30, 2007

	2007	2006	2005	2004
Receipts				
Licensing Fees	\$120,721.00	\$119,693.75	\$123,350.00	\$118,225.00
<u>Disbursements</u>				
Personnel Costs	38,496.48	36,556.08	33,525.36	32,321.84
Employee Benefits	5,624.82	5,017.51	4,206.52	3,648.86
Travel In-State	6,593.03	5,961.43	4,340.25	6,103.51
Travel Out-of-State	5,180.29	1,188.63	-	3,203.86
Rentals and Leases	14,026.95	11,891.16	11,438.48	11,327.28
Utilities & Communication	954.21	390.00	-	-
Professional Services	1,612.00	461.92	399.48	462.61
Supplies, Materials and Operating	3,922.00	3,850.26	4,145.01	4,888.97
Total	76,409.78	65,316.99	58,055.10	61,956.93
Excess of Receipts over Disbursements	44,311.22	54,376.76	65,294.90	56,268.07
Cash Balances at Beginning of Year	320,536.61	266,159.85	200,864.95	144,596.88
0 0				,
Cash Balances at End of Year	364,847.83	320,536.61	266,159.85	200,864.95
Reserved for Unpaid Obligations	(1,105.00)	(660.00)	(100.00)	(100.00)
Unreserved Cash Balances at End of Year	\$363,742.83	\$319,876.61	\$ 266,059.85	\$ 200,764.95

Operating Receipts and Disbursements (Chart)



QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were mailed to all seven board members. Five responded.

Question #1

What are the most significant issues currently facing the Board of Examiners of Nursing Home Administrators and how is the Board addressing these issues?

Respondent 1--"Reciprocity issues with other states, Increasing numbers of jeopardy citations with serious quality concerns in the state."

Respondent 2--"Not aware of any significant issues at this time."

Respondent 3--"Immediate jeopardy citations."

Respondent 4—"None."

Respondent 5—"None at this time."

Question #2

What changes to the Board's laws are needed?

Respondent 1—Licensing eligibility should be re-addressed. More emphasis should be placed on clinical experience in a nursing home / long term care vs. education alone. Life experience in long term care is critical to successful nursing home management and quality."

Respondent 2--"None that I am sure of."

Respondent 3--"None."

Respondent 4—"None."

Respondent 5—"No issues at this time."

Question #3

Is the Board adequately funded?

Yes 5 No 0 Unknown 0 No Opinion

Question #4

Is the Board adequately staffed?

Yes 5 No 0 Unknown 0 No Opinion 0

Question #5

What is the purpose of your fiscal year end fund balance?

Respondent 1--"The purpose of the unobligated funds at year end is to use in case of unplanned emergency situations and to use as a rainy day problem with funding."

Respondent 2--"To carry forward for emergency purpose."

Respondent 3--"NA."

Respondent 4—"Funds carried over for emergency use."

Respondent 5—"To determine any outstanding balance due."

Licensee Questionnaire

Questionnaires were mailed to 100 licensees. Fifty-seven responded.

Question #1

Do you think regulation of your profession	by the Alabama Board of Examiners of
Nursing Home Administrators is necessary	to protect the public welfare?

Yes 50 No 6 Unknown 0 No Opinion 1

Respondent 9—"State Dept of Health performs that function."

Question #2

Do you think any of the Board's laws, rules, and policies are an unnecessary restriction on the profession?

Yes_7 No_48 Unknown_ No Opinion_1

Respondent 20—"Except they require more CEU's per year than my other licenses."

Question #3

Do you think any of the Board's requirements are irrelevant to the competent practice of your profession?

Yes 7 No 48 Unknown 1 No Opinion 0

Respondent 52—"People with MBA's or MHA can run hospitals yet need a preceptorship for the nursing home. As we look at upcoming shortages in healthcare administration we should consider reducing the preceptor hours for these degrees."

Question #4

Are you adequately informed by the Board of changes to and interpretations of Board positions, policies, rules and laws?

Yes 44 No 7 Unknown 2 No Opinion 3

Respondent 9—"I can go to numerous websites and get real time information." Respondent 20—"You do not get informed unless you go on line or .a member of the Nursing Home Assoc." Respondent 52—"If not a member of the Nursing Home Association it is difficult to stay informed." Question #5 Has the Board performed your licensing and renewal in a timely manner? Yes 56 No 0Unknown 0 No Opinion 0 Question #6 Do you consider mandatory continuing education necessary for competent practice? Yes 48 No 7 Unknown 0 No Opinion 1 Respondent 13—"Too many hours required, difficult to find good topics." Respondent 20—"...The hours they require are excessive." Respondent 53—"But not 24 CEU's per year-Maybe12." Respondent 54—"Absolutely." Question #7 Has the Board approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours? Yes 51 Unknown 0 No Opinion 1 No 4 Respondent 13—"Again too many hours required for the topics given." Respondent 14—"It's to difficult to get approved to give CEU's and to actually get credit for training due to requirements for approval by the Board." Respondent 20—"CEU for when disciplines should be accredited as well." Respondent 54—"North Alabama is not served as the rest of the state with local opportunities."

Question #8

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board doing to address the issues?

Respondent 2—"Too much paperwork-Not enough time on the floor. Cost of health care."

Respondent 4—"Nursing shortage."

Respondent 6—"Census growth-growing business. Board needs to do more to assets. Staffing-i.e. Recruiting and Retention techniques. Board needs to do more. G & I.J. level tags. Fines, Process to clear. Board needs to do more."

Respondent 7—Punitive Regulatory consequences for state nursing home Licensure authority."

Respondent 8—State survey Process and regulations offers education and information on through weekly round up newsletter."

Respondent 9—Reimbursement issues, C.O.N. regulations."

Respondent 10—"Recruitment and Retention Staff. Regulation and Interpretation of them by survey team. Culture Change that is taking place in Nursing Homes. Seminars, Training Events and other Continuing Education Opportunities are provided.

Respondent 11—"Funding for Medicaid, Working with applicable parties for resolution."

Respondent 12—"RN, LPN Shortages-Unknown what Board is doing, Survey/Regs-Keeps us in the know."

Respondent 14—"Not enough bed for baby boomers, cutting of rates for payment of services."

Respondent 15—"Regulatory issues. AL Board of N.H. Adm is in constant talks w/ State officials to clarify any concerns regarding regulation and state activity."

Respondent 16—Family Faluity not able to trail family members for Adm. Lic."

Respondent 17—"Not assisting with issues regarding DHR."

Respondent 18—"State surveys are too subjective and we work in a very litigious industry."

Respondent 20—"Unrealistic requirements from the Dept of Public Health in managing Nursing Homes."

Respondent 25—"Out of control surveyors and regulation. LTC is more about documentation and covering yourself than it is about caring for people. The BOE does all in can with changing regulations and interpretations of old rules, seemingly on a daily or at least monthly basis."

Respondent 26—"Culture change, continuing education."

Respondent 29—"The ability to carry over continuing education hours (alone the annual required 24 hours) from year to year would be a positive change."

Respondent 30—"Funding and Regulatory process."

Respondent 31—"Inconsistent survey process and remedies by the ADPH."

Respondent 33—"Federal and State Regulations."

Respondent 36—"Federal and State Regulation, Medicare funding."

Respondent 37—"Mcaid reimbursement, enforcement state and federal regulations by state surveyors, lawsuits. Board collaborates with ANHA which lobbies and communicates with ADPH."

Respondent 39—" Lack of qualified state."

Respondent 41—"No opinion."

Respondent 42—"I feel the shortage of nurses maybe one of the biggest challenges we are facing today. I think all entities are trying to join forces to find help in this area."

Respondent 45—"Survey Process."

Respondent 46—"Medicaid reimbursement, Medicare Legislation."

Respondent 47—"ADPH surveys. The Board is working with the ADPH."

Respondent 49—"Currently not participating in Alabama."

Respondent 50—"Governmental Funding. Lobbying for better funding."

Respondent 52—"Adequate funding so that homes can be compliant with recommendations. Work with emergency management to insure strong knowledgeable and cooperation amongst providers."

Respondent 53—"Medicaid funding-Excessive regulatory control."

Question #9

Do you think the Board and its staff are satisfactorily performing their duties?

Yes 49 No 2 Unknown 2 No Opinion 3

Question #10

Has any member of the Board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a Board service for you?

Yes <u>0</u> No <u>56</u> Unknown <u>0</u> No Opinion <u>0</u>

Respondent 10—Board is an antiquated good ole boy network. Providers pay a ton of money and for what?"

Complainant Questionnaire

our concerns."

Questionnaires were mailed to six complainants. Two responded.
Question #1
Was your complaint filed with the Alabama Board of Examiners of Nursing Home Administrators by:
Mail 1 Phone 2 Fax Other Unknown 0
* One respondent sent multiple notices of complaint.
Question #2
Was receipt of your complaint promptly acknowledged?
Yes 2 No Unknown
If yes, approximately how long after you filed your complaint were you contacted by the Board?
Immediately Within 10 days Within 20 days Within 30 days_1 More than 30 days Did not respond Unknown_1
Question #3
Was the employee who responded to your complaint knowledgeable and courteous?
Knowledgeable: Yes 1 No 1 Unknown 0 Courteous: Yes _ No 1 Unknown 0
Respondent 1—"I know the bad experiences my family had I know how we were treated and I wouldn't treat a dog like that."
Question #4
Did the Board communicate the results of investigating your complaint to you?
Yes 2 No Unknown
Respondent 1—"They treated our complaints like a big joke-were not at all interested in

Question #5

Do you think the Board did everything it could to resolve your complaint?				
Yes	No_2_	Unknown		
Responden	ıt 1—"Absolı	itely Not."		
Question #	<u>#6</u>			
Were you satisfied with your dealings with the Board?				
Yes	No_2_	Unknown <u>0</u>		
Respondent 1—"The people I dealt with could not have cared less!!There is absolutely no one to protect our old folks in Nursing Homes."				
Other Con	iments:			

Respondent 2—" Nursing Home in my opinion is a Hell hole of neglect. I went in one day at 2:30 p.m. she had a bath and they lopped her in her chair by her bed she was so catatonic, stiff the nurse couldn't lift her head. Her eye turned my direction had the most pleading look like I'll never forget Her bed was unmade, cover, sheets on floor at 2:30 p.m. (no) way she was fed at stiff as she was. I'd go in and find her nutrition drink hid behind flowers, or t.v. Her mother couldn't lift her hands or arms. I couldn't move her since I didn't have power of attorney."

APPENDICES

Smart Performance Reports

Smart Quarterly Performance Report											
Fiscal Year: 2007											
Agency: 326 Nursing Home Administrators, Board of Examiner	s of										
Org:											
Program: 653 PRO AND OCCU LICENSING AND REG											
Activity:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload/Cost Factor	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
WC1: Number of applicants entering the profession	AIT Applications	15	6	10	10	15	8	8	8	48	32
WC2: Number of applicants licensed	Original Licenses Issued	8	5	15	10	10	9	10	8	43	32
WC3: Number of licensees renewing their license	Licenses Renewed	125	100	115	143	155	124	95	92	490	459
Spending	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
SP1: Continue to maintain spending costs to ensure that we operate within our allotted funds	Quarterly Allotment Amounts	29,375	16,777.57	28,575	22,975	27,625	19,052	24,425	21,767	110,000	75,781
Staffing	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
ST1: Continue to keep staff at current level - 1 part-time employee	Total Part-time FTEs	1.0	1	1.0	1	1.0	1	1.0	1	1.0	1
Efficiency	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
EF1: Continue to operate within or below appropriations	Quarterly Allolment Amounts	29,375	16,777.57	28,575	22,975	27,625	19,052	24,425	21,767	110,000	75,781
Quality	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
QU1: Resolve 25% of complaints satisfactorily within 90 days of receipt	Percent of Complaints resolved within 90 days	0.25	0	0.25	0	0.25	0	0.25	1	0.25	0.33

How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2006-07 affected your agency in meeting its desired accomplishments and services?

lo Answer Available

What administrative improvements did your agency make in fiscal year 2006-07 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.

No Answer Available

Friday, May 23, 2008 EBO Form 10

FY 08 SMART Quarterly Performance Report

Page 2 of 2

Basic Agency

270 da

Agency	: 326 - Nursing Home Administra	ators, Bo	ard of Ex	amine	Program:	653 - PI	RO AND	OCCU L	ICENS	ING AND	REG			
Organization: -						Activity: -								
				K	ey Goal:									
Goal 1	Resolve complaints satisfactorily within 270 days of receipt of the complaint.									Governor's Priority:		4		
		- 15	Objec	tives and	Quarterly 7	Targets:	0				Ţ,			
Performance Measures			First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual			
	Objectives	Unit of Measure	Target	Actual	Target	Actual	Target	Actual *	Target	Actual *	Target	Actual *		
(O1-Efficier days of rece		# complaints received/# complaints resolved	100	66	100	0	100	0	100	0	100	0		

^{*} Actual performance data is not currently available for this quarter.

Statutory Authority

CHAPTER 20. NURSING HOME ADMINISTRATORS.

1. Generally

Statutes which regulate nursing homes impose a duty for the public at large. Any individual person injured, therefore, would acquire no new rights by virtue of the enactment of the statutes. Flint City Nursing Home, Inc. v. Depreast, 406 So.2d 356 (Ala.1981). Health 603

The statutes which were enacted to regulate and require nursing homes and their administrators to be licensed, were enacted under the police power to provide for the public health, welfare and safety, and are designed to protect the public generally from incompetent, unethical, and unscientific practitioners in nursing home care. Flint City Nursing Home, Inc. v. Depreast, 406 So.2d 356 (Ala.1981).

§ 34-20-1. Definitions.

Current through End of 2007 Regular Session.

For purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

- (1) Board. The Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (2) Examiner. A member of the Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (3) Secretary. The Secretary of the Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (4) Nursing Home Administrator. Any individual who is charged with the general administration of a nursing home, whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.
- (5) Provisional license. A temporary license issued to a provisional nursing home administrator by the Board of Examiners of Nursing Home Administrators.
- (6) Provisional nursing home administrator. An individual who has been issued a provisional license by the Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (7) Practice of nursing home administration. The planning, organizing, directing and control of the operation of a nursing home.
- (8) Nursing home. Any institution or facility defined as such for licensing purposes under state law.

(Acts 1969, No. 986, p. 1734, § 1.)

§ 34-20-2. License required.

Current through End of 2007 Regular Session.

No nursing home in the state may operate unless it is under the supervision of an administrator who holds a currently valid nursing home administrator's license, or provisional license, issued by the Board of Examiners of Nursing Home Administrators. No person shall practice or offer to practice nursing home administration in this state or use any title, sign, card or device to indicate that he is a nursing home administrator unless such person shall have been duly licensed as a nursing home administrator or as a provisional nursing home administrator. In the event a nursing home administrator dies, unexpectedly resigns, becomes incapacitated or has his license revoked, the person or persons then responsible for the management of the nursing home shall immediately notify the Board of Examiners of Nursing Home Administrators and the agency issuing the nursing home license and shall be allowed a reasonable period of time, in accordance with policies adopted by the board, to be established by the agency issuing the nursing home license, not to exceed 180 days from the date of the death, unexpected resignation, incapacitation or revocation of the license of the nursing home administrator in which to replace the said administrator. During said reasonable period of time, the board may issue an emergency permit to a person performing the functions of administrator in such nursing home without being in violation of the provisions of this chapter. (Acts 1969, No. 986, p. 1734, § 2.)

§ 34-20-3. State licensing board for healing arts to have no jurisdiction. Repealed by Acts 1989, No. 89-238, p. 335, §§ 3, 7, effective April 6, 1989. [AL ST SEC 34-20-3] Current through End of 2007 Regular Session.

§ 34-20-4. Board of Examiners of Nursing Home Administrators -- Generally.

Current through End of 2007 Regular Session.

- (a) There is a Board of Examiners of Nursing Home Administrators composed of seven members, six original members as set out in this subsection, and an additional consumer member as set out in subsection (b). The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. The six original members shall be composed as follows: Three members shall be nursing home administrators duly licensed and registered under this chapter; one member shall be a physician, licensed under the laws of the State of Alabama, who is actively concerned in a practice with the care of chronically ill and infirm, aged patients; one member shall be a hospital administrator; and one member shall be a registered nurse, licensed in Alabama, who has five years' experience as a geriatric nurse and who is actively serving as a director of nursing in a geriatric facility.
- (b) Within 30 days following April 6, 1993, the Governor shall appoint an additional consumer member of the board for a term that is the same as the term of the member who is a licensed registered nurse. The consumer member shall vote in all matters. No consumer member, or a spouse or immediate family member of a consumer member, shall be a licensee of the board or be employed in the nursing home profession.
- (c) All members of the board shall be citizens of the United States and shall be residents of the state. Not more than one board member from any United States

Congressional District may be appointed to serve at the same time, unless necessary to ensure diversity on the board or to satisfy other board member qualification requirements of this section.

- (d) The three members who are licensed nursing home administrators whose terms expire after April 6, 1993, shall each serve a one-year term of office. Successor members shall serve three-year terms and no board member shall serve, in addition to the one-year term provided in this subsection, more than two consecutive full three-year terms. All members shall continue to serve until a successor is appointed by the Governor.
- (e) Appointments to the board for those positions to be held by nursing home administrators shall be made by the Governor from a list of three nominees for each position to be submitted to the Governor by the Alabama Nursing Home Association. The appointment to the board of the member for the position to be held by a physician shall be made by the Governor from a list of three nominees to be submitted by the Medical Association of the State of Alabama. The appointment to the board of the member for the position to be held by a hospital administrator shall be made by the Governor from a list of three nominees to be submitted to him by the Alabama Hospital Association. The appointment to the board of the member for the position to be held by a licensed registered nurse shall be made by the Governor from a list of three nominees to be submitted to him by the Alabama State Nurses Association. In the event the nominating entities and the Governor are unable to nominate or appoint members to the board so that diversity and other requirements of this section are satisfied, the board may submit a substitute list of three nominees to the Governor for appointment who are selected from the state at-large and otherwise qualify for appointment.
- (f) The Governor may remove any board member for misconduct, incapacity, incompetence, or neglect of duty after the board member so charged has been served with a written statement of charges and has been given an opportunity to be heard. Absence from any three consecutive meetings of the board within a calendar year, without cause acceptable to the Governor and the board shall be deemed cause for removal.
- (g) Any vacancy created by the death, resignation, or removal of any board member shall be filled by the Governor for the unexpired term in the same manner as required by this chapter to make appointments.
- (h) Each member of the board shall receive a per diem fee of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) to be determined by the board for the time spent in the performance of official duties. Each member shall be reimbursed for all necessary and proper travel and incidental expenses incurred in implementing this chapter as is provided to state employees by the laws of the State of Alabama and regulations of the State Personnel Director. In setting the per diem fee, the board shall give due consideration to funds which are available for that purpose.
- (i) The board shall hold four or more meetings a year. A majority of the members of the board shall constitute a quorum at any meeting except as provided in Section 34-20-14. A majority vote of the members present shall be sufficient to transact the business of the board except as provided in Section 34-20-14. Meetings may be called by the chair or by a majority of the members of the board. Members shall be given seven days' written notice of all meetings.
- (j) The board shall annually elect from its members a chair and a vice chair, at the first meeting of the board held after October 1 of each year, and each shall serve until the

first meeting held after October 1 of the following year. In the event of the death, resignation, or removal of the chair from the board, the vice chair shall succeed as chair for the remainder of the unexpired term. In the event of the death, resignation, removal, or succession to the office of chair of a vice chair, a successor shall be elected by the board to fill the remainder of the unexpired term as vice chair. The chair, or in the absence of the chair, the vice chair, shall preside at all meetings of the board. The chair of the board may appoint a secretary to the board, with the consent of the members of the board, who shall serve at the pleasure of the board. The salary of the secretary shall be fixed by the board. The secretary shall be the executive officer to the board but shall not be a member of the board. The secretary shall have those powers and shall perform those duties as are prescribed by law and the rules and regulations of the board. A clerk and sufficient deputy clerks to adequately assist the board and secretary in the keeping of the records and in the performance of their duties may be appointed by the board subject to the merit system.

(Acts 1969, No. 986, p. 1734, § 4; Acts 1980, No. 80-467, p. 731, § 1; Acts 1993, No. 93-152, p. 216, § 3; Acts 1997, No. 97-157, p. 208, § 3; Act 2001-246, § 3.)

§ 34-20-5. Board of Examiners of Nursing Home Administrators -- Functions, powers and duties.

Current through End of 2007 Regular Session.

- (a) It shall be the function and duty of the board to:
- (1) Develop, impose and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators:
- (2) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;
- (3) Issue licenses to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;
- (4) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;
- (5) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards; and
- (6) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

- (b) The board shall have the authority to:
- (1) Make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the state to meet the requirements set forth in Section 1908 of the Social Security Act, federal rules and regulations promulgated thereunder and other pertinent federal authority; and
- (2) Establish, provide or approve various education programs or courses for nursing home administrators, and to prescribe rules and regulations requiring applicants for licenses as nursing home administrators to attend such programs or courses as a prerequisite to their being admitted to the examination or issued a license, and requiring licensed nursing home administrators to attend such programs or courses as a prerequisite to their being issued any license renewal.

(Acts 1969, No. 986, p. 1734, § 5.)

§ 34-20-6. Board of Examiners of Nursing Home Administrators -- Review of decisions.

Current through End of 2007 Regular Session.

Any party aggrieved by a final decision or order of the Board of Examiners of Nursing Home Administrators suspending, revoking or refusing to issue a license is entitled to a review of such decision or order by taking an appeal to the circuit court of the county in which the nursing home administrator or applicant resides. In such cases, such appeal shall be taken by filing notice thereof with the register or clerk of the circuit court within 30 days of the date of notice by the board of its decision. Appeals from any order or judgment rendered thereon by the circuit court to the Supreme Court of Alabama shall be available as in other cases.

(Acts 1969, No. 986, p. 1734, § 15.)

§ 34-20-7. Board of Examiners of Nursing Home Administrators -- Authorization to receive and expend funds; audit.

Current through End of 2007 Regular Session.

The Board of Examiners of Nursing Home Administrators is hereby authorized to receive and expend, in carrying out the purposes of this chapter, all sums paid by applicants and registrants as provided in this chapter, and all sums which might be appropriated for such purposes, and are also authorized to receive and expend any funds available for such purposes from the federal government. An annual financial audit shall be conducted of all receipts and expenditures, and a written report of the audit shall be given to each board member.

(Acts 1969, No. 986, p. 1734, § 16; Acts 1980, No. 80-467, p. 731, § 1.)

§ 34-20-8. Advisory council.

Current through End of 2007 Regular Session.

The governing body of the Alabama Nursing Home Association shall constitute an advisory council to the Board of Examiners of Nursing Home Administrators, and the

Board of Examiners of Nursing Home Administrators shall be required to counsel with the advisory council in connection with the administration of the provisions of this chapter.

(Acts 1969, No. 986, p. 1734, § 6.)

§ 34-20-9. Qualifications for admission to examination; fees.

Current through End of 2007 Regular Session.

- (a) The board shall admit to examination for licensure as a nursing home administrator any candidate who submits evidence of good moral character and suitability prescribed by the board and who submits evidence to the board that he or she is at least 19 years of age, a citizen of the United States, or that he or she has duly declared his or her intention of becoming a citizen of the United States, that he or she is a high school graduate or has completed an educational program equivalent thereto, and that he or she has completed any additional educational requirements prescribed by the board. Each candidate shall also be required, prior to admission to the examination, to pay an examination fee established by the board pursuant to its rule-making authority.
- (b) The board may establish an application fee for the internship or administrator in training (AIT) program and a fee for preceptor, certification, and recertification of the administrator in training (AIT) program pursuant to its rule-making authority. (Acts 1969, No. 986, p. 1734, § 17; Acts 1989, No. 89-238, p. 335, § 3; Acts 1993, No. 93-152, p. 216, § 3.)

§ 34-20-10. Contents and schedule of examinations.

Current through End of 2007 Regular Session.

- (a) The board shall determine the subjects of examinations for applicants for licensure, and the scope, content, and format of the examinations, which in any examination shall be the same for all candidates. The examinations shall include examination of the applicant to demonstrate his or her proficiency in the rules and regulations of health and safety. The examination may consist of written or oral questions, or both.
- (b) Examinations shall be held at least four times each year, at times and places designated by the board.

(Acts 1969, No. 986, p. 1734, § 8; Acts 1993, No. 93-152, p. 216, § 3.)

§ 34-20-11. Issuance of license; fee for temporary emergency permit.

Current through End of 2007 Regular Session.

An applicant for a license as a nursing home administrator who has:

(1) Successfully complied with the educational and training requirements of this chapter and of the rules and regulations of the board promulgated under this chapter; and

- (2) Has paid an application fee established by the board pursuant to its rule-making authority for all applicants; and
- (3) Qualified for and passed the examination provided for in this chapter; shall be issued a license on a form provided for that purpose by the board, certifying that the applicant has met the requirements of the laws, rules, and regulations entitling him or her to serve, act, practice, and otherwise hold himself or herself out as a duly licensed nursing home administrator and has paid a fee established by the board pursuant to its rule-making authority for original licensure.

The board may collect a fee established by the board pursuant to its rule-making authority for the issuance of a temporary emergency permit issued pursuant to Section 34-20-2.

(Acts 1969, No. 986, p. 1734, § 9; Acts 1985, No. 85-283, p. 183, § 3; Acts 1989, No. 89-238, p. 335, § 3; Acts 1993, No. 93-152, p. 216, § 3.)

§ 34-20-12. Reciprocity.

Current through End of 2007 Regular Session.

The board may, subject to this chapter and the rules and regulations of the board prescribing the qualifications for a nursing home administrator license, issue a license to a nursing home administrator who has been issued a license by the proper authorities of any other state or issued a certificate of qualification by any national organization, upon complying with the provisions of licensure, payment of a fee established by the board pursuant to its rule-making authority, and upon submission of evidence satisfactory to the board:

- (1) That the other state or national organization maintained a system and standards of qualification and examinations for a nursing home administrator license or certificate which were substantially equivalent to those required in this state at the time the other license or certificate was issued by the other state or national organization; and
- (2) That the other state gives similar recognition and endorsement to nursing home administrator licenses of this state. The board may charge a fee for completion of a reciprocity questionnaire, pursuant to its rule-making authority.

(Acts 1969, No. 986, p. 1734, § 10; Acts 1989, No. 89-238, p. 335, § 3; Acts 1993, No. 93-152, p. 216, § 3.)

§ 34-20-13. Renewal of licenses; expiration and reactivation; inactive status; file of applications and licenses; continuing education.

Current through End of 2007 Regular Session.

(a) Every individual who holds a valid current license as a nursing home administrator issued by the board under this chapter shall immediately upon issuance have the right and privilege of acting and serving as a nursing home administrator and of using the abbreviation "N.H.A." after their name. Thereafter, the individual shall annually be required to make application to the board for a renewal of license and to

report any facts requested by the board on forms provided for that purpose.

- (b) Upon making application for a renewal of license, the individual shall pay an annual license fee established as determined by the board pursuant to the rule-making authority, and, at the same time, shall submit evidence satisfactory to the board that during the year immediately preceding application for renewal he or she has complied with the requirements of the board concerning the continuation of education of nursing home administrators.
- (c) Upon receipt of the application for renewal of license, the renewal fee, and the evidence with respect to continuing education, the board shall issue a license renewal to the nursing home administrator.
 - (d)(1) Failure to secure an annual renewal of a license, based on a failure to meet the continuing education requirements, shall result in the expiration of the license. An expired license may not be "reactivated." All persons holding an expired license shall be required to submit a new application and follow all procedures for licensure of a new applicant.
 - (2) A licensee who complies with the continuing education requirements but who does not renew within 90 days following its due date shall be deemed delinquent and may renew within the 90-day period by paying a late renewal fee established by the board pursuant to its rule-making authority. A license that is not renewed within the 90-day period shall be deemed expired, and is subject to reapplication as provided in subdivision (1).
- (e) A licensee who holds a current license and who is not practicing as a nursing home administrator may place that license into an "inactive status" upon written application to the board. Any licensee whose license has been placed on inactive status may not engage in the practice of nursing home administration.
- (f) A licensee whose license is on an inactive status who wishes to "reactivate" that license may do so by making application to the board. The applicant shall attach proof of having completed 24 hours of approved continuing education credits within one year of making application for license reactivation, and shall pay a reactivation fee established by the board pursuant to its rule-making authority. A licensee may not have his or her license in inactive status for more than five years. After five years in inactive status, the license automatically becomes expired.
- (g) The board shall maintain a file of all applications for licensure that includes the following information on each applicant: residence, name, age, the name and address of his or her employer or business connection, the date of application, educational and experience qualifications, action taken by the board, serial numbers of licenses issued to the applicant, and the date on which the board acted on or reviewed the application.
- (h) The board shall maintain a list of current licensees of the board, and shall furnish the list on demand to any person who pays a fee established by the board pursuant to its rule-making authority.
- (i) The board shall adopt a program for continuing education for its licensees by October 1, 1991. After that date, successful completion of the continuing education program by board licensees shall be required in order to obtain a renewal license.
- (j) Continuing education shall not result in a passing or failing grade. (Acts 1969, No. 986, p. 1734, § 11; Acts 1980, No. 80-467, p. 731, § 1; Acts 1989, No. 89-238, p. 335, §§ 3, 4; Acts 1993, No. 93-152, p. 216, § 3.)

§ 34-20-14. Disciplinary proceedings; administrative fines.

Current through End of 2007 Regular Session.

- (a) The board is hereby authorized to discipline its licensees by the adoption and collection of administrative fines, not to exceed \$1,000.00 per violation and is authorized to institute any legal proceedings necessary to effect compliance with this chapter.
- (b) The license of any person practicing or offering to practice nursing home administration or the license of a provisional nursing home administrator may be revoked or suspended by the board, or such person may be reprimanded, censured or otherwise disciplined in accordance with the provisions of this section upon decision and after due hearing in any of the following cases:
 - (1) Upon proof that such person has willfully or repeatedly violated any of the provisions of this chapter or the rules enacted in accordance therewith; or willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home in which he is administrator;
 - (2) Upon proof that such person's conduct is immoral, unprofessional or dishonorable:
 - (3) Upon proof that such person is guilty of fraud or deceit in the practice of nursing home administration or in his or her admission to such practice; or
 - (4) Upon proof that such person has been convicted in a court of competent jurisdiction, either within or without the state, of a crime involving moral turpitude.
- (c) The board shall have the jurisdiction to hear all charges brought under the provisions of this section against any person having been issued a license as a nursing home administrator or having been issued a license as a provisional nursing home administrator; and upon such hearings shall determine the charges upon their merits. If the board determines that disciplinary measure should be taken, the board may revoke his or her license, suspend him or her from practice or reprimand, censure or otherwise discipline such person.
- (d) All proceedings under this section shall be heard by the board with at least two thirds of its members present, and decisions to discipline any licensee shall require a vote of two thirds of the membership of the entire board; provided, that the board may designate three or more of its members to comprise a hearing committee for the purpose of determining whether charges brought justify a hearing by the board, and with the authority to dismiss frivolous or unfounded charges.
- (e) At any hearing under this chapter, the person charged shall have the right to appear either personally or by counsel or both to produce witnesses and evidence in his own behalf and to cross-examine witnesses. The board or hearing committee shall have the authority to issue subpoenas, compel the attendance of witnesses, administer oaths and take testimony concerning all matters within the jurisdiction of the board. The circuit court of the county wherein said hearing is to take place shall have authority, on application of the board, to enforce obedience to said subpoenas and orders of the board concerning such testimony.

(Acts 1969, No. 986, p. 1734, § 13; Acts 1989, No. 89-238, p. 335, § 3.)

§ 34-20-15. Restoration of license.

Current through End of 2007 Regular Session.

The board may, for good cause shown, upon such terms as the board may prescribe, reissue a license to any person whose license has been revoked. (Acts 1969, No. 986, p. 1734, § 14.)

§ 34-20-16. Prohibited acts; penalties.

Current through End of 2007 Regular Session.

- (a) It shall be a misdemeanor for any person to:
 - (1) Sell or fraudulently obtain or furnish any license or aid or abet therein;
- (2) To practice as a nursing home administrator under cover of any license illegally or fraudulently obtained or unlawfully issued;
- (3) Practice as a nursing home administrator or use in connection with his or her name any designation tending to imply that he or she is a nursing home administrator unless duly licensed to so practice under the provisions of this chapter;
- (4) Practice as a nursing home administrator or use in connection with his or her name any designation tending to imply that he or she is a nursing home administrator during the time his or her license issued under the provisions of this chapter shall be expired, suspended or revoked; or
 - (5) Otherwise violate any of the provisions of this chapter.
- (b) Such misdemeanor shall be punishable by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than 90 days or by both such fine and imprisonment.

(Acts 1969, No. 986, p. 1734, § 12.)

OFFICE OF THE ATTORNEY GENERAL



AG Opinion #8100145

CHARLES A. GRADDICK

ATTORNEY GENERAL STATE OF ALABAMA

JUN 2 1981

ADMINISTRA'

ADMINISTRATIVE BUILDING 64 NORTH UNION STREET MONTGOMERY, ALABAMA 36130 AREA (205) 834-5150

WILLIAM M. BENURS, JR. EXECUTIVE ASSISTANT

WALTER S. TURNER CHIEF ASSISTANT ATTORNEY GENERAL

JAMES R. SOLOMON, JR.

JANK NOBLES ADMINISTRATIVE ASSISTANT

> Honorable Frank G. Perryman Chairman, Board of Examiners of Nursing Home Administrators 660 Adams Avenue Montgomery, Alabama 36104

> > Board of Examiners of Nursing Home Administrators

Board of Examiners of Nursing Home Administrators may contract with the Nursing Home Association for office space.

Dear Mr. Perryman:

Reference is made to your request for an opinion from the Attorney General as to whether the Board of Examiners of Nursing Home Administrators may enter into a contract with the Alabama Nursing Home Associations to provide the Board of Examiners with office space and clerical assistance with the Board of Examiners reimbursing the Nursing Home Association for the expenses it accrues in providing the office space, supplies, postage and other materials to the Board.

Your question is to be answered in the affirmative.

Regarding the authority of the Board of Examiners of Nursing Home Administrators to enter into a contract with the Nursing Home Association to rent office space, the Board of Examiners is a state agency and can exercise

Honorable Frank G. Perryman Page Two

only those powers granted to it under law by the Legislature. Code of Alabama 1975, Section 34-20-7 authorizes the Board of Examiners of Nursing Home Administrators to receive and to expend funds in the carrying out of its purposes. Section 30-20-5 authorizes that Board to take such actions as may be necessary for the proper performance of its duties. The Attorney General is of the opinion that the authority given the Board of Examiners by the above provisions empowers the Board to rent office space to provide a location from which the Board may carry out its duties and maintain its records.

As to whether the Board of Examiners of Nursing Home Administrators may contract with the Nursing Home Association for office space and clerical help, Code of Alabama 1975, Section 34-20-8 states that the governing body of the Alabama Nursing Home Association shall function as an advisory council to the Board of Examiners of Nursing Home Administrators. Considering the compatible interest and the close relationship of these two bodies, it is the opinion of the Attorney General that a contract between the Board of Examiners of Nursing Home Administrators and the Nursing Home Association for office space and clerical assistance for the Board would present no impropriety and is appropriate and proper.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely yours,

CHARLES A. GRADDICK Attorney General

By.-

LYNDA F. KNIGHT

Assistant Attorney General

LFK:jaf

Board Members

Alabama Board of Examiners of Nursing Home Administrators 4156 Carmichael Road Montgomery, Alabama 36106 Phone (334) 271-2342 FAX (334) 244-6509 www.alboenha.state.al.us

Executive Secretary to the Board: Katrina G. Magdon

Board Members

Benjamin E. Jackson
 Heritage Health Care Center
 1101 Snows Mill Avenue
 Tuscaloosa, Alabama 35406-3042

Phone: 205-759-5179 FAX: 205-759-5216

Term expires 4/13/2008

Appointment made by the Alabama Nursing Home Association

Licensed Nursing Home Administrator Represents Congressional District 6

Ellen C. Briley

Elba General Hospital and Nursing Home

9432 State Highway 141 Elba, Alabama 36323

Phone: 334-897-2500

FAX: 334-897-3959

Term expires 3/6/2007

Appointment made by the Alabama Hospital Association

Hospital Administrator

Represents Congressional District 2

Joyce Varner

University of South Alabama 401 E. Myrtle Avenue

Foley, Alabama 36535 Phone: 251-955-1386

Cell: 205-410-1399

Term expires 3/6/2007

Registered Nurse

Appointment made by the Alabama State Nurses Association

Represents Congressional District 1

Pam Penland

Health Care, Inc.

P.O. Box 130

Ashville, Alabama 35953 Phone: 205-594-5148

FAX: 205-594-2614

Term Expires 4/13/2008

Appointment made by the Alabama Nursing Home Association

Licensed Nursing Home Administrator Represents Congressional District 4 5. Richard Bryan Jones Crowne Management, LLC 501 Whetstone Street

Monroeville, Alabama 36460

Phne: 251-743-7146 FAX: 251-575-4105

Term expires 4/13/2008

Appointment made by the Alabama Nursing Home Association

Licensed Nursing Home Administrator Represents Congressional District 1

6. Donna Horn

202 Sherwood Avenue

Troy, Alabama 36081

Phone: 334-566-5175

FAX: 334-735-3204

Term expires 3/6/2004

Consumer Member

Appointment made by the Governor of Alabama

Represents Congressional District 2

7. Dr. W. Dwain Rush

1444 Talladega Street

Lineville, Alabama 36266-6908

Term expires 3/6/2004

Physician

Appointment made by the Medical Association of the State of Alabama

Represents Congressional District 3

Please let me know if additional information is needed.

Sincerely,

Maturia G. Magdon
Executive Secretary

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RESPONSE TO SIGNIFICANT ITEM



State of Alabama Board of Examiners of Nursing Home Administrators 4156 Carmichael Road Montgomery, Alabama 36106

> Telephone (334) 271-2342 FAX (334) 244-6509 www.alboenha.state.al.us

September 17, 2008

Mr. John Norris Director State Audit Division Examiners of Public Accounts 50 North Ripley Street, Room 3201 P.O. Box 302251 Montgomery, Alabama 36130-2251

Dear Mr. Norris:

In connection with our Sunset Audit, I respectfully submit a response to the following significant audit item:

1. The board is closely associated with the Alabama Nursing Home Association. The board's Executive Secretary is also an employee of the Association. The board's offices are located at the same address as the Alabama Nursing Home Association. The Alabama Nursing Home Association is by law an advisory board to the Board of Examiners of Nursing Home Administrators. The Attorney General in his opinion #8100405 (see appendices) approves the board's contracting with the Alabama Nursing Home Association to provide office space and clerical assistance for the Board.

The Board requested an Attorney General's opinion and received a response on June 2, 1981 regarding the relationship of the Board and the Association. The opinion finds that this relationship "presents no impropriety and is appropriate and proper." The Board continues this relationship and has been able to operate since inception from licensure fees and does not require any monies from the General Fund.

The Board currently has a governmental real estate lease with the Association at a cost of \$12,123.24 per year (\$17.75 per square foot – 683 square feet) for office space. The 683 square feet office space is located on the second floor of the Association building. The office space includes a private office, bathroom conference room and storage space. The space is separate and the board is the only tenant on that floor. All Association activities are carried out on the first floor.

The Board's executive secretary, Katrina Magdon, is an employee of both organizations. Mrs. Magdon plans all of the Association's educational seminars and convention activities. Mrs. Magdon is also involved in keeping up to date on current regulatory issues for the Association. Mrs. Magdon carries out her duties in separate offices on different floors. Mrs. Magdon completes the Ethics forms in accordance with State law and reports the relationship on those forms. Mrs. Magdon is supervised by the Association's Executive Director, Louis E. Cottrell, Jr.

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The Board has its own phone line and computer operating system. The computer system runs on a different set of software from the Association. The Boards equipment is password protected. Mrs. Magdon has the voice mail system password protected. No other Association staff is or has ever been authorized to speak on behalf of the Board or to answer any Board related questions.

The Board believes that it has been able to utilize the expertise and talents of Mrs. Magdon for operating an efficient and effective board operation. Mrs. Magdon has been very conscience of the separation of the two organizations and does not discuss Board matters with any other Association staff member. Mrs. Magdon averages about 20 hours per week with the Board. She is the only employee of the Board and carries out all activities as such.

Should you have any questions or need further information regarding this please do not hesitate to call.

Sincerely,

Matrina G. Magdon

Katrina G. Magdon Executive Secretary